

Petition of Western Massachusetts Electric Company, pursuant to G.L. c. 164 §§ 69H, 76, 94, 94B, and 94G; and 220 C.M.R. §§ 10.00 et seq. for review of the procedures by which additional energy resources are planned, solicited, and procured by Western Massachusetts Electric Company.

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ORDER ON OFFER OF SETTLEMENTI. INTRODUCTION

On January 3, 1994, pursuant to G.L. c. 164, §§ 69H, 76, 94, 94A and 69G, 220 C.M.R. §§ 10.00 et seq., Western Massachusetts Electric Company, D.P.U. 92-88 (1992), ("WMECo") Western Massachusetts Electric Company ("WMECo" or "Company") filed with the Department of Public Utilities ("Department") a Draft Initial Filing ("DIF") in its second Integrated Resource Management ("IRM") proceeding. The petition was docketed as D.P.U. 94-12.

Pursuant to notice duly issued, a public hearing was held on February 15, 1994 at the Department's offices in Boston to afford interested persons an opportunity to be heard. A technical session was held on February 7, 1994, also at the Department's offices in Boston.¹ The Attorney General of the Commonwealth ("Attorney General") intervened pursuant to G.L. c. 12, § 11E. The Department granted the petitions for leave to intervene filed by Eastern Edison Company ("EECo"), Massachusetts Energy Efficiency Council, Inc., ("MEEC"), Boston Edison Company ("BEC"), Commonwealth of Massachusetts

¹ Pursuant to the IRM regulations, an electric company is required to hold at least one technical session prior to the initial filing. 220 C.M.R. § 10.03 (4)(a). The purpose of the technical session is to provide a basis for exchange of information and clarification of the DIF, and to establish procedures and rules for further discussions designed to limit or settle issues that arise in the DIF.

Division of Energy Resources ("DOER"), Coalition of Non-Utility Generators, Inc. ("CONUG"), Conservation Law Foundation ("CLF"), and Massachusetts Public Interest Research Group ("MASSPIRG"). The Department granted the Limited Participant petitions of Massachusetts Electric Company ("MECo") and Cambridge Electric Light Company and Commonwealth Electric Company.

On February 1, 1994, CONUG filed a Motion to Defer Settlement Proceedings. WMECo's response to this Motion was filed with the Department on February 4, 1994. On February 15, 1994, the Hearing Officer denied CONUG's Motion. Settlement negotiations began thereafter.²

On March 28, 1994, the Department granted WMECo's request for an extension of the date on which to file its Initial Filing.

On April 5, 1994, WMECo filed a Motion for Approval of a Settlement and an Offer of Settlement ("Settlement"). This Settlement is jointly sponsored by the Company, the Attorney General, CLF, DOER,

² Pursuant to the IRM regulations, an electric company is required to enter into settlement negotiations with the parties to a proceeding for the purpose of facilitating the Department's review of the initial filing by (1) evaluating the electric company's draft initial filing and improving all parties' understanding of the draft initial filing, (2) reaching agreement among the parties to the maximum extent possible on the electric company's draft initial filing, (3) making agreed upon improvements to the draft initial filing which will be reflected in the initial filing, and (4) identifying specific areas for adjudications, if necessary, before the Department. 220 C.M.R. § 10.03 (4)(b).

MASSPIRG, CONUG, and MEEC.³

On April 20, 1994, the Department granted WMECo's Motion for Extending the Time to Submit its Initial IRM Filing and WMECO's Motion for a Waiver from any Requirement to Submit an Initial Filing with the Offer of Settlement.

II. THE PROPOSED SETTLEMENT

The Proposed Settlement provides that the current IRM proceeding shall be terminated without any findings by the Department. In particular, the Settlement states that there shall be no findings or determinations with respect to the Company's demand forecast (energy sales and peak load forecast), supply plan, demand-side estimates, and resource need (Settlement at 2).

The Settlement states that WMECo will submit its next DIF on April 28, 1995 (id.).⁴ This DIF will include a new supply plan and demand forecast (id. at 3). Additionally, this filing will include information associated with the emissions of NO_x, SO_x, particulates, air toxics, and greenhouse gases for each existing supply-side resource

³ BECo and EEC_o elected not to sign the Settlement. However, the parties to the Settlement have been authorized to state that BECo and EEC_o neither endorse nor object to the Settlement (Settlement at 1).

⁴ The Settlement states that the Company's April 28, 1995 DIF will comport with the IRM regulations or other regulations which may be applicable to the Company at the time of filing (Settlement at 2).

for the period from 1994 through 2004 (id.). Specifically, the Company will provide information on technologies and the associated capital and variable costs to control these emissions (id. Att. A).

The Settlement also indicates that the Company's next DIF will include a draft supply-side Request for Proposals ("RFP") or a request for a waiver from this requirement (id. at 4). Under the terms of the Settlement the Company would not request a waiver from any requirement that a supply-side RFP be submitted if the Company's year of need, as set forth in the April 28, 1995 filing, occurs within eight years of the filing date (id.).

Further the Settlement indicates that the Company's next DIF will include a Demand- Side Management ("DSM") RFP for appropriate market segments (id. at 5). The Settlement does not commit any of the parties to any position with respect to this issue (id.).

Finally, the Settlement provides that the Company's next DIF will address DSM activities for the year 1996 and beyond, as appropriate (id.). Should the April 28, 1995 filing not be fully adjudicated prior to December 31, 1995, the Company agrees to continue DSM programs through May 30, 1996, at funding levels at least equal to the 1995 levels authorized by the Department (id.).⁵

⁵ In D.P.U. 92-88-A, the Department approved an Offer of Settlement, by which WMECo is to implement DSM programs for the years 1994 and 1995.

III. ANALYSIS AND FINDINGS

In assessing the reasonableness of an offer of settlement, the Department must review the entire record as presented in the Company's filing and other record evidence to ensure that the settlement is consistent with Department precedent and public policy. See Fitchburg Gas and Electric Company, D.P.U. 92-181, at 13 (1993); Western Massachusetts Electric Company, D.P.U. 92-13, at 7 (1992); Barnstable Water Company, D.P.U. 91-189, at 4 (1992); Fall River Gas Company, D.P.U. 91-61, at 3 (1991) Cambridge Electric Light Company, D.P.U. 89-109, at 5 (1989); Southbridge Water Supply Company, D.P.U. 89-25 (1989).

The Settlement proposed in this proceeding represents agreement among a broad set of interests. It is appropriate to accept a proposed settlement agreement if the intended purpose of an IRM proceeding -- to implement procedures by which additional resources are planned, solicited, and procured to meet an electric company's obligation to provide reliable electrical service to ratepayers at the lowest total cost to society -- would not be advanced if we were to continue our review of the current IRM filing. WMECo, at 7. The Department notes that the interests of ratepayers are served by an IRM process that is flexible in the means employed to establish the need for and the cost of additional resources.

For these reasons and in light of the Company's representation regarding its absence of need for additional resources, the Department finds that continuing to review WMECo's IRM filing at this time would not yield any clear benefits to ratepayers. Therefore, the Department finds that the interests of ratepayers would best be advanced through acceptance of the Settlement. Accordingly, the Department approves the proposed Settlement.

Finally, our acceptance of this Settlement should not be interpreted as establishing precedent for further IRM filings and our acceptance does not constitute a determination or finding on the merits of any aspect of the Company's filing.

IV. ORDER

Accordingly, after due consideration, it is

ORDERED: That the Joint Motion to Approve a Settlement Agreement, filed with the Department on April 5, 1994 by the Western Massachusetts Electric Company, Attorney General, Commonwealth of Massachusetts Division of Energy Resources, Coalition of Non-Utility Generators, Inc., Conservation Law Foundation, Inc., Massachusetts Public Interest Research Group, and Massachusetts Energy Efficiency Council, Inc., be and hereby is approved.

By Order of the Department,

Kenneth Gordon, Chairman

Barbara Kates-Garnick, Commissioner

Mary Clark Webster, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).